

**IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

LYNN ANDREWS, et. al.,

PLAINTIFFS,

vs.

SCHELL & KAMPETER, INC.,

DEFENDANT.

CIVIL ACTION No. 2:06-cv-136-A

STATUS REPORT

COMES NOW Defendant Schell & Kampeter, Inc., and submits this status report in accordance with the Court's Order (Doc. #8):

1. This action arises out of Plaintiffs' allegations that Defendant Schell & Kampeter, Inc. d/b/a Diamond Pet Foods is liable for injuries and damages purportedly sustained through Plaintiffs' use of one or more of Defendant's pet food products. Specifically, Plaintiffs' Complaint alleges causes of action for breach of express and implied warranties, negligence, violations of the Alabama Extended Manufacturers' Liability Doctrine ("AEMLD"), and unjust enrichment.
2. Plaintiffs have also requested that this action be certified by this Court as a class action.

3. On February 21, 2006, this Defendant filed a Motion To Stay these proceedings on the grounds that a previously filed action in Tennessee made virtually identical claims against this Defendant and purported to encompass the Alabama Plaintiffs in this action. (Doc. #5.)
4. In its March 9, 2006, Order (Doc. #8), the Court granted Defendant's motion and ordered that all proceedings in this case would be stayed pending a determination on class certification of the claims previously filed against this Defendant and now pending in the United States District Court for the Eastern District of Tennessee, styled *Nicole D. Bass v. Schell & Kampeter, Inc. and Diamond Pet Foods, Inc.*, 3:05cv586.
5. Further, the Court's Order directed the parties to file a status report by September 8, 2006, in the event no determination on class certification had been made in the Tennessee case.
6. In accordance with said Order, this Defendant submits that, upon information and belief, class certification is still pending in the Tennessee case.

DATED this 8th day of September 2006.

Respectfully submitted,

S/Bethany L. Bolger
Dennis R. Bailey (BAI028)
Robert C. Ward, Jr. (WAR038)
Bethany L. Bolger (BOL035)
Attorneys for Defendant Schell & Kampeter, Inc.
d/b/a Diamond Pet Foods

Of counsel:

RUSHTON, STAKELY, JOHNSTON & GARRETT, P.A.
184 Commerce Street
Post Office Box 270
Montgomery, Alabama 36101-0270
(334) 206-3234 (Bailey phone)
(334) 206-3229 (Ward phone)
(334) 206-3194 (Bolger phone)
(334) 481-0031 (fax)
drb@rsjg.com (Bailey e-mail)
rcw@rsjg.com (Ward e-mail)
bbolger@rsjg.com (Bolger e-mail)

CERTIFICATE OF SERVICE

I hereby certify that on this the 8th day of September 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notice of such filing to the following:

Jason A. Stuckey (jstucky@cochranfirm.com; jason@gulaslawfirm.com)

Theodore A. Gulas (ike@gulaslawfirm.com)

S/Bethany L. Bolger
Of counsel